



**UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/817,507	04/17/97	KISHIMOTO	53466/201

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HM22/1006

EXAMINER
BURKE, J

PART UNIT	PAPER NUMBER
1642	21

DATE MAILED: 10/06/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Advisory Action

Application No.

08/817,507

Applicant(s)

Kishimoto et al

Examiner

Julie E. Burke, (Reeves), Ph.D.

Group Art Unit

1642



THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) ☒ expires six months from the mailing date of the final rejection.
- b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on \_\_\_\_\_ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on 10 Sep 1999 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

☒ The proposed amendment(s):

☒ will be entered upon filing of a Notice of Appeal and an Appeal Brief.

☐ will not be entered because:

- ☐ they raise new issues that would require further consideration and/or search. (See note below).
- ☐ they raise the issue of new matter. (See note below).
- ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE:

☒ Applicant's response has overcome the following rejection(s):

the claim objections; 112 2nd claim rejections; 112, 1st deposit rejection and 102(b) rejection

- ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

☒ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:

103 rej. stands because the combined art teaches method of treating patient having cachexia with PM-1 Ab.

Although cachexia may arise by many causes, the response admits & spec/art teaches cancer induced cachexia. (See

- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: noneClaims objected to: noneClaims rejected: 15 and 24-28

- ☐ The proposed drawing correction filed on \_\_\_\_\_ ☐ has ☐ has not been approved by the Examiner.

- ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☒ Other Treating cancer necessarily treats associated cachexia, as supported by Tanaka et al which clearly states that the "regression of tumor by cytostatics must result in recovery from cachexia" (page 4530-1 bridging para). Amdt to p 1 of spec cannot be entered because it is not clear which occurrence of "claims priority to" is intended.

JULIE BURKE  
PRIMARY EXAMINER

J Burke